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# HOUSE BILL No. 1305

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-2.5-5-39; IC 6-3.1-24.

**Synopsis:** Energy efficiency tax incentives. Exempts sales of certain energy efficient electrical appliances, heating and cooling products, and fuel cells from the state gross retail tax. Entitles a taxpayer to a credit against the taxpayer's state tax liability if the taxpayer installs a qualified energy system in a building owned by the taxpayer. Provides that for a single family dwelling, the credit amount is the lesser of: (1) \$3,000; or (2) 25% of the costs of the qualified energy system and its installation. Provides that for a building that is not a single family dwelling, the credit amount is the lesser of: (1) \$10,000; or (2) 25% of the costs of the qualified energy system and its installation. Requires a taxpayer to obtain a qualified energy system certificate from the department of commerce to claim the credit.

**Effective:** Upon passage; January 1, 2003.

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## Ruppel, GiaQuinta

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January 15, 2002, read first time and referred to Committee on Ways and Means.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1305

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-2.5-5-39 IS ADDED TO THE INDIANA CODE  
2       AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3       JANUARY 1, 2003]: **Sec. 39. (a) This section applies to retail**  
4       **transactions that occur after December 31, 2002, and before**  
5       **January 1, 2007.**

6       **(b) Sales of the following are exempt from the state gross retail**  
7       **tax:**

8               **(1) Any of the following electrical appliances that meet or**  
9               **exceed the applicable Energy Star efficiency standards**  
10              **developed by the United States Environmental Protection**  
11              **Agency and the United States Department of Energy:**

12                      **(A) A clothes washer.**

13                      **(B) A refrigerator.**

14                      **(C) A dishwasher.**

15                      **(D) A room air conditioner.**

16               **To qualify for the exemption provided by this subsection, a**  
17               **retail transaction must involve the sale of an electrical**



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appliance that is manufactured in the United States. For purposes of this subsection, an electrical appliance is manufactured in the United States if it meets the requirements for manufactured articles used in federal procurements under the Buy American Act (41 U.S.C. 10(a) et seq.).

(2) Any of the following heating and cooling products that meet or exceed the applicable Energy Star efficiency standards developed by the United States Environmental Protection Agency and the United States Department of Energy:

- (A) Boilers.
- (B) Central air conditioners.
- (C) Electric air source heat pumps.
- (D) Furnaces.
- (E) Geothermal heat pumps.
- (F) Programmable thermostats.

(3) A natural gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling.

(4) An electric heat pump that has a heating system performance factor of at least 7.5 and a cooling seasonal energy efficiency ratio of at least 13.5.

(5) An electric heat pump hot water heater that has an energy factor of at least 1.7.

(6) An advanced natural gas water heater that has an energy factor of at least 0.65.

(7) A central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5.

(8) A fuel cell that:

- (A) generates electricity and heat by using an electrochemical process;
- (B) has an electricity only generation efficiency greater than thirty-five percent (35%); and
- (C) has a generating capacity of at least two (2) kilowatts.

(c) The department may adopt rules under IC 4-22-2 to implement this section.

(d) This section expires January 1, 2007.

SECTION 2. IC 6-3.1-24 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2003]:

**Chapter 24. Energy System Credits**



1       Sec. 1. As used in this chapter, "energy device" means  
2 equipment designed primarily for the collection, transfer,  
3 distribution, storage, or control of solar or wind energy. The term  
4 does not mean the parts of a heating, a cooling, or an electric  
5 supply system that would be required regardless of the energy  
6 source being used.

7       Sec. 2. As used in this chapter, "home builder" means a person  
8 who:

- 9           (1) constructs; or  
10          (2) causes to be constructed;  
11 homes to resell them to others.

12       Sec. 3. (a) As used in this chapter, "qualified energy system"  
13 means only energy devices that are:

- 14           (1) installed after December 31, 2002; and  
15           (2) used in an energy producing system for the purpose of  
16 space heating or cooling, water heating, or generating  
17 electricity.

18       (b) The term includes the following:

- 19           (1) Active thermal systems that use solar devices thermally  
20 isolated from the living space to provide for the collection,  
21 storage, and distribution of solar energy for heating or  
22 cooling.  
23           (2) Passive thermal systems that are not augmented by  
24 mechanical components and that use the structural elements  
25 of the building to provide for the collection, storage, and  
26 distribution of solar energy for heating or cooling.  
27           (3) Semipassive thermal systems that use the structure of a  
28 building and are augmented by mechanical components to  
29 provide for the collection, storage, and distribution of solar  
30 energy for heating or cooling.  
31           (4) Energy conservation measures applied in conjunction with  
32 a solar or wind energy device to increase the efficiency of the  
33 energy device.  
34           (5) Geothermal systems that are designed to use the natural  
35 heat from the earth to provide hot water, produce electricity,  
36 or generate heating or cooling.  
37           (6) Hydroelectric power systems that are designed to use the  
38 kinetic power of moving water to provide mechanical energy  
39 or to produce electricity.

40       Sec. 4. As used in this chapter, "state tax liability" has the  
41 meaning set forth in IC 6-3.1-5-2.

42       Sec. 5. As used in this chapter, "taxpayer" means a person,



corporation, partnership, or other entity that is subject to the taxes imposed by the following statutes:

- (1) IC 6-2.1 (the gross income tax).
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).
- (3) IC 6-3-8 (the supplemental net income tax).
- (4) IC 6-5-10 (the bank tax).
- (5) IC 6-5-11 (the savings and loan association tax).
- (6) IC 6-5.5 (the financial institutions tax).
- (7) IC 27-1-18-2 (the insurance premiums tax).

Sec. 6. (a) A taxpayer who is:

- (1) the owner of an existing building; or
- (2) the purchaser of a new building;

that is located in Indiana and in which a qualified energy system is installed is entitled to a credit against the taxpayer's state tax liability for the year during which the qualified energy system is installed.

(b) Except as provided in subsection (c), the amount of the credit a taxpayer is entitled to under this chapter is determined in STEP THREE of the following formula:

STEP ONE: Add:

- (A) the costs paid by the taxpayer for the qualified energy system; to
- (B) the amount paid for its installation and the materials used in its installation.

STEP TWO: Reduce the amount determined under STEP ONE by any amount the taxpayer received as a grant from any public entity for installing the qualified energy system.

STEP THREE: Determine the lesser of:

- (A) three thousand dollars (\$3,000); or
- (B) the amount determined under STEP TWO multiplied by twenty-five hundredths (0.25).

(c) This subsection applies if the qualified energy system is installed in a building that is not a single family dwelling. The amount of the credit that a taxpayer is entitled to under this chapter is determined in STEP THREE of the following formula:

STEP ONE: Add:

- (A) the costs paid by the taxpayer for the qualified energy system; to
- (B) the amount paid for its installation and the materials used in its installation.

STEP TWO: Reduce the amount determined under STEP ONE by any amount the taxpayer received as a grant from

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any public entity for installing the qualified energy system.

**STEP THREE: Determine the lesser of:**

(A) ten thousand dollars (\$10,000); or

(B) the amount determined under STEP TWO multiplied by twenty-five hundredths (0.25).

**Sec. 7. (a)** The amount of the credit provided by this chapter that a taxpayer uses during a particular taxable year may not exceed the taxpayer's state tax liability for that taxable year. If the credit provided by this chapter exceeds a taxpayer's state tax liability for the taxable year for which it is first claimed, the excess may be carried over to succeeding taxable years and used as a credit against the taxpayer's state tax liability for those taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year. The credit provided by this chapter may be carried over until it is completely used.

(b) If a credit is carried over and used in a later taxable year under subsection (a), the taxpayer claiming the credit must provide the department with proof that the taxpayer is entitled to the carryover amount.

**Sec. 8.** Except in the case of a husband and wife filing a joint return, if there is more than one (1) taxpayer who owns a building for which a qualified energy system is installed, each taxpayer may use the credit provided by this chapter in proportion to the taxpayer's ownership interest in the building. In the case of a husband and wife who own a building jointly and who file separate tax returns, each may claim the credit in equal shares or either of them may claim the entire credit.

**Sec. 9.** If an energy device is used in conjunction with two (2) or more qualified energy systems, the credit allowed under this chapter for the energy device may be:

(1) claimed for any one (1) of the qualified energy systems; or

(2) divided equally among all of the qualified energy systems.

**Sec. 10.** A home builder may not claim a credit under this chapter for the installation of a qualified energy system in a home that the home builder has constructed for sale or has caused to be constructed for sale. However, the original purchaser of the home may claim the credit under this chapter. The original purchaser must first claim the credit for the taxable year during which the purchaser acquires legal title to the home.

**Sec. 11. (a)** Except as provided in subsection (b), the department

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1 may adopt rules under IC 4-22-2 to implement this chapter.

2 (b) The department of commerce shall adopt rules for  
3 determining performance and quality standards for determining  
4 if an energy system is a qualified energy system.

5 Sec. 12. (a) In order to claim the credit allowed under this  
6 chapter for a particular energy system, the taxpayer must first file  
7 an application for a qualified energy system certificate with the  
8 department of commerce. The department of commerce shall  
9 prescribe the form and contents of the application.

10 (b) Upon receipt of an application filed under subsection (a), the  
11 department of commerce shall determine whether the energy  
12 system in question is a qualified energy system. If the department  
13 of commerce determines that the energy system is a qualified  
14 energy system, the department of commerce shall issue a qualified  
15 energy system certificate to the applicant.

16 Sec. 13. To obtain the credit allowed under this chapter, the  
17 taxpayer must file with the department:

18 (1) proof of the taxpayer's costs for the purchase and  
19 installation of the qualified energy system;

20 (2) a list of the persons or corporations that supplied labor or  
21 materials for the installation; and

22 (3) a qualified energy system certificate issued by the  
23 department of commerce under section 12 of this chapter.

24 Sec. 14. This chapter expires January 1, 2012. However, any  
25 portion of the credit that is carried forward to succeeding tax years  
26 may be claimed until the total amount of the credit is used in the  
27 manner provided by section 7 of this chapter.

28 SECTION 3. [EFFECTIVE JANUARY 1, 2003] IC 6-3.1-24, as  
29 added by this act, applies to taxable years beginning after  
30 December 31, 2002.

31 SECTION 4. [EFFECTIVE UPON PASSAGE] (a) The department  
32 of commerce shall adopt the rules required:

33 (1) under IC 6-3.1-24-11(b), as added by this act; and

34 (2) for determining whether an energy system is a qualified  
35 energy system;

36 not later than December 31, 2002.

37 (b) This SECTION expires December 31, 2003.

38 SECTION 5. An emergency is declared for this act.

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